

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

MARTIN J. WALSH, Secretary)
of Labor United States Department of Labor,)
Plaintiff,)
v.)
ALL TEMPORARIES MIDWEST, INC.,)
A Minnesota Corporation; and MARK)
LIVERINGHOUSE, an Individual)
Defendants.)
Case No: 20-cv-2090 (TNL)
Magistrate Judge TONY N. LEUNG

ORDER

Plaintiff, **MARTIN J. WALSH**, Secretary of Labor, United States Department of Labor (“Secretary”) filed his “*Motion for Judgement of Default Against Defendant ALL TEMPORARIES MIDWEST, INC.*” (ECF No. 24) on December 8, 2021. This matter has previously been referred to the undersigned Magistrate Judge pursuant to the parties’ consent and corresponding order. (ECF No. 18.) Noting that there has been no opposition filed thereto and for cause shown:

Plaintiff’s Motion for Judgment by Default Against Defendant All Temporaries Midwest, Inc. (ECF No. 24) is **GRANTED**.

JUDGMENT IS HEREBY ENTERED against Defendant **ALL TEMPORARIES MIDWEST, INC.** pursuant to section 17 of the Fair Labor Standards Act of 1938, as Amended, 29 U.S.C. § 201 *et seq.* (the “Act”) as follows:

IT IS HEREBY ORDERED AND ADJUDGED, pursuant to section 17 of the Act, that the Defendant, their officers, agents, servants, successors, employees, and all persons in active

concert or participation with them be and hereby are, permanently enjoined and restrained from violating the provisions of the Act, in any of the following manners.

I

A. Defendant shall not, contrary to sections 7 and 15(a)(2) of the Act, employ any nonexempt employees who in any workweek are engaged in commerce or the production of goods for commerce, or who are employed in an enterprise engaged in commerce or in the production of goods for commerce, within the meaning of the Act, for workweeks longer than 40 hours, unless such employee receives compensation for his employment in excess of 40 hours at a rate not less than one and one-half times the regular rates at which he is employed. Specifically, Defendant shall stop categorizing certain weekly payments to employees as “mileage” when these payments are not for travel expenses, as described under 29 U.S.C. § 207(e)(2), and instead should be included in their employees’ regular rate for purposes of calculating overtime.

B. Defendant shall not fail to make, keep and preserve records of their nonexempt employees and of the wages, hours, and other conditions and practices of employment maintained by them as prescribed by the regulations issued, and from time to time amended, pursuant to section 11(c) of the Act and found in 29 CFR Part 516. This includes, but is not limited to, maintaining records of all hours worked by each nonexempt employee in each workday and each workweek, and records of compensation paid to each such employee in each workweek, whether payment is made by a payroll check, personal check, cash or a combination thereof. The records maintained by Defendant shall also include, but not be limited to, the full name and last-known mailing address of all employees, the daily work start and stop times of each employee, and the specific method of payment made to each employee.

C. Defendant, their agents, officers or employees shall not, contrary to section 15(a)(3) of the Act, threaten, retaliate, or discriminate in any way against any current or former employee of Defendant for exercising any rights under the FLSA, including, but not limited to, employee complaints regarding FLSA compliance made to Defendant or to the Wage and Hour Division of the United States Department of Labor, or cooperation with an investigation conducted by the Wage and Hour Division.

II

FURTHER, JUDGMENT IS HEREBY ENTERED, pursuant to section 16(c) of the Act, in favor of the Plaintiff and against the Defendant in the total amount of \$308,475.30.

A. Defendant shall pay to Plaintiff the sum of \$154,237.65, which represents the overtime compensation hereby found to be due to the current or former employees named in **Employee List**, attached hereto and made a part hereof.

B. Defendant shall further pay to Plaintiff as liquidated damages the additional sum of \$154,237.65 hereby found to be due the present and former employees named in **Employee List**.

C. The unpaid compensation and liquidated damages referred to hereinabove cover the present and former employees identified in **Employee List**, respectively, for the following time period: July 10, 2017 to October 30, 2019. These compensation and liquidated damages are the joint and several obligations of Defendant **ALL TEMPORARIES MIDWEST, INC.**, and Defendant **MARK LIVERINGHOUSE**.

III

FURTHER, it is hereby **ORDERED** that Defendant **ALL TEMPORARIES MIDWEST, INC.** bears its own fees and other expenses incurred in connection with any stage

of this proceeding to date with no costs, including, but not limited to, any and all costs referenced under the Equal Access to Justice Act, as Amended.

IV

FURTHER, this Court shall retain jurisdiction of this matter to enforce the terms of this judgment pursuant to Federal Rule of Civil Procedure 54.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Date: January 6, 2022

s/Tony N. Leung
Tony N. Leung
United States Magistrate Judge
District of Minnesota

Employee List

First Name	Last Name	Back Wages	Liquidated Damages
1. Abera	Angolie	\$45.00	\$45.00
2. Kyesha	Bates	\$486.56	\$486.56
3. Jodi	Beck	\$9,778.09	\$9,778.09
4. Katie	Bertrand	\$40.00	\$40.00
5. Josephine	Boltz	\$27.50	\$27.50
6. Rachel	Borrego	\$1,059.33	\$1,059.33
7. Nancy	Cassell	\$11,146.79	\$11,146.79
8. Jesyka	Chute	\$521.86	\$521.86
9. Mario	Cornejo	\$8,506.76	\$8,506.76
10. Denise	Daniels	\$872.40	\$872.40
11. Gracie	Delgado	\$146.34	\$146.34
12. Irma	Flores	\$501.08	\$501.08
13. Anica	Gaye	\$90.00	\$90.00
14. Lori	Hawkins	\$1,489.65	\$1,489.65
15. Alexa	Hazelton	\$315.06	\$315.06
16. Teresa	Holt-mota	\$539.46	\$539.46
17. Adriane	Jackson	\$2,396.58	\$2,396.58
18. Alfred	Jarry	\$137.57	\$137.57
19. Joe	Johnson	\$1,836.49	\$1,836.49
20. Amy	Knapper	\$1,775.34	\$1,775.34
21. David	Kor	\$18,123.81	\$18,123.81
22. Michelle	Kosel	\$461.46	\$461.46
23. Anita	Lent	\$1,169.03	\$1,169.03
24. Cheri	MCClure	\$207.48	\$207.48
25. Latonia	Miller	\$6,080.01	\$6,080.01
26. Florence	Mobegi	\$547.41	\$547.41
27. Zoahdormei	Nuah	\$1,218.72	\$1,218.72

28. Cecelia	Nyandibo	\$391.22	\$391.22
29. Ochan	Okello	\$16,677.13	\$16,677.13
30. Madia	Parteh	\$733.44	\$733.44
31. Jody	Peterson	\$195.00	\$195.00
32. Mary	Petit	\$7,937.12	\$7,937.12
33. Francisco	Ramirez	\$33.27	\$33.27
34. Barbara	Rusek	\$25.50	\$25.50
35. Rosa	Sanchez	\$2,910.39	\$2,910.39
36. Maria	Soler	\$187.00	\$187.00
37. Kalley	Spitzengel	\$25.00	\$25.00
38. Sierra	Stephenson	\$1,185.00	\$1,185.00
39. Michael	Stewart	\$280.00	\$280.00
40. Kathryn	Stoll	\$2,948.66	\$2,948.66
41. Anna	Suarez	\$91.88	\$91.88
42. Kathryn	Sutherland	\$236.50	\$236.50
43. Prince	Tedoe	\$471.05	\$471.05
44. Debra	Thompson	\$6,907.59	\$6,907.59
45. Elizabeth	Tillman	\$6,222.00	\$6,222.00
46. Beatrice	Tolbert	\$12,171.95	\$12,171.95
47. Patrick	Treka1	\$3,456.85	\$3,456.85
48. Patricia	Treka2	\$310.06	\$310.06
49. Jessica	Unger	\$4,018.25	\$4,018.25
50. DJ	White Wolf	\$2,397.70	\$2,397.70
51. Phillip	Womoakor	\$88.26	\$88.26
52. Narko	Wuanti	\$583.62	\$583.62
53. Stacey	Young-Roller	\$4,367.99	\$4,367.99
54. Shandani	Zamarripa	\$1,139.80	\$1,139.80
55. James	Zarwu	\$1,353.57	\$1,353.57
56. Kollie	ZayZay	\$7,372.07	\$7,372.07
		\$154,237.65	\$154,237.65